

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project File Number, Description, and Location

GP03-03-017 & PDC03-094, General Plan amendment to change the Land Use/Transportation Diagram designation for a 5.6-acre site from Medium Low Density Residential (8 DU/AC) on 1.6 acres and Medium High Density Residential (12-25 DU/AC) on approximately 4 acres to Medium Density Residential (8-16 DU/AC) on 5.6 acres and Planned Development Rezoning from R-1-8 Residence Zoning District, CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 55 single-family detached residences on a 8.6 acre site. The project also includes the proposed dedication of land to the City for a public park, and the proposed conversion of an approximately 300-foot-long portion of E. Virginia Street to a one-way travel way with the addition of angled parking on the street at that location. (San Jose Christian College, Owner, KB Homes Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

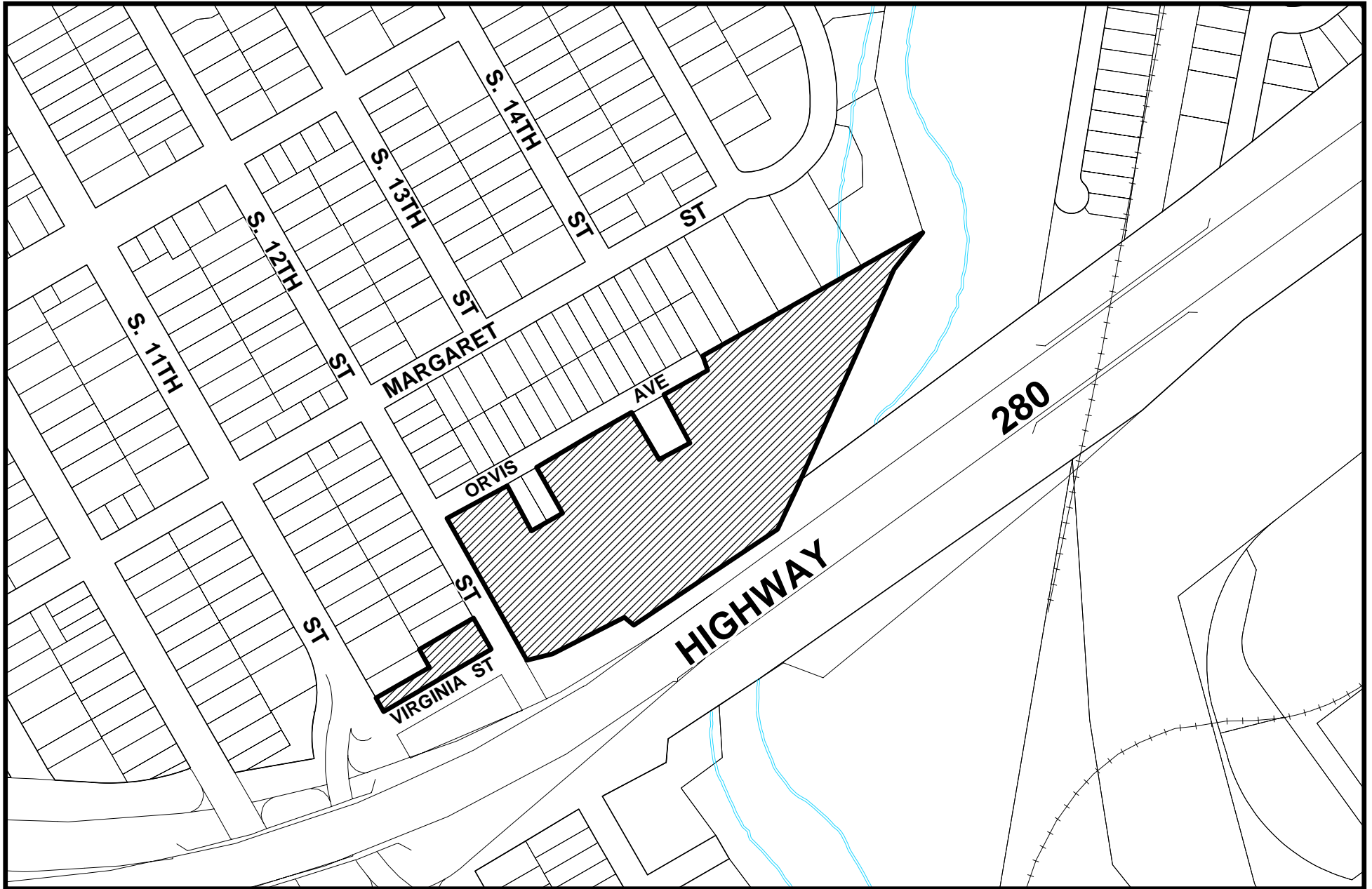
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **August 11, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **July 13, 2004** and ends on **August 11, 2004**.

A public hearing on the project described above is tentatively scheduled for August 11, 2004 at 6 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Biblioteca Latino-Americano Branch Library, 921 S. 1st St., San José, CA 95110 San Jose, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lee Butler** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: July 13, 2004

Deputy



File No: PDC03-094

District: 3

Quad No: 83



Scale: 1" = 300'

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Residential Development at the San Jose Christian College

PROJECT FILE NUMBER: GP03-03-017 & PDC03-094

PROJECT DESCRIPTION: General Plan amendment to change the Land Use/Transportation Diagram designation for a 5.6-acre site from Medium Low Density Residential (8 DU/AC) on 1.6 acres and Medium High Density Residential (12-25 DU/AC) on approximately 4 acres to Medium Density Residential (8-16 DU/AC) on 5.6 acres and Planned Development Rezoning from R-1-8 Residence Zoning District, CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 55 single-family detached residences on a 8.6 acre site. The project also includes the proposed dedication of land to the City for a public park, and the proposed conversion of an approximately 300-foot-long portion of E. Virginia Street to a one-way travel way with the addition of angled parking on the street at that location.

PROJECT LOCATION & APNs: South 12th Street between Orvis Street and Highway 280 (SNI: University); 472-21-034, -098, -037, -040, -041, -083, -084, -102; 472-22-060, -061, -062

COUNCIL DISTRICT: 3

NAME OF APPLICANT AND CONTACT INFORMATION: Ray Hashimoto, HMM Engineers 1520 Oakland Road, San Jose, CA 95131, 408-487-2200/ KB Home South Bay, Inc., 6700 Koll Center Pkwy, Ste. 200, Pleasanton, CA 94566, 925-750-1700

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. The following General Plan Policies will be implemented through staff design review of the proposal associated with the Planning Divisions' development review process:
 - Urban Conservation Policy #2: The City should encourage new development that enhances the desirable qualities of the community and existing neighborhoods.
 - Community Identity Policy #1: The City should encourage the development of a compact, cohesive pattern of urbanization with definite, identifiable boundaries that readily create a sense of community identity.
 - Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.

- Urban Design Policy #2: Private development should include adequate landscaped areas. Landscaped areas should utilize water efficient plant materials and irrigation systems. Energy conservation techniques such as vegetative cooling and wind shielding should also be utilized. All landscaped areas should include provision for ongoing landscape maintenance.
 - Urban Design Policy #3: Residential subdivisions should be designed to provide for internal circulation within neighborhoods, prevent through vehicular traffic from traversing neighborhoods, and encourage pedestrian and bicycle connections between neighborhoods and to adjacent commercial uses and transit facilities.
 - Urban Design Policy #4: Residential developments that are adjacent to parks or open spaces should be encouraged to provide direct access to, and common open space contiguous to, such areas.
 - Urban Design Policy #5: The design review process should take into consideration the long-term maintenance ramifications of the design of private streets and other private infrastructure improvements.
 - Urban Design Policy #8: Design solutions should be considered in the development review process that addresses security, aesthetics, and public safety.
 - Urban Design Policy #16: When development is proposed adjacent to existing or planned parks or park chains, that development should include public park-frontage roads, wherever feasible, in order to maximize access to park lands, to provide a reasonable separation between urban land uses and park lands without the use of "back-up" design, and to maximize exposure of park lands for scenic and security purposes.
 - Urban Design Policy #17: Development adjacent to creekside areas should incorporate compatible design and landscaping including plant species that are native to the area or are compatible with native species.
 - Urban Design Policy #18: To the extent feasible, sound attenuation for development along City streets should be accomplished through the use of landscaping, setback and building design.
 - Urban Design Policy #24: New development projects should include the preservation of ordinance sized and other significant trees. Any adverse affect on the health and longevity of such trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.
 - Urban Design Policy #32: Amenities should be added to create a pleasant walking environment. These measures include ample sidewalk widths, crosswalks, street furniture, pedestrian-activated crossing lights, and street trees.
 - Urban Design Policy #33: All developments should provide pedestrian friendly design features including, but not limited to, pedestrian pathways connecting public streets to building entrances and other features of the site. In addition, street trees and appropriate pedestrian scale lighting should be installed in developments within Pedestrian Priority Areas.
 - Urban Design Policy #35: New development should increase neighborhood connectivity by providing access across natural barriers (i.e., rivers) and man-made barriers (i.e., freeways).
2. Air Quality Policy #1: The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.
3. The following construction practices shall be implemented during all phases of construction for the proposed project:
1. Water all active construction areas at least twice daily.
 2. Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
 3. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 4. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
 5. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
 6. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 7. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
 8. Limit traffic speeds on unpaved roads to 15 mph.
 9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 10. Replant vegetation in disturbed areas as quickly as possible.

4. Adherence to the following General Plan policies would mitigate impact of future development:
 - Water Resource Policy #1: The City, in cooperation with the Santa Clara Valley Water District, should restrict, or carefully regulate, public and private development in watershed areas, especially in those necessary for effective stream flow and for the prevention of excessive siltation.
 - Water Resource Policy #3: The City should encourage the Santa Clara Valley Water District to restrict public access and recreational uses on land adjacent to rivers, creeks, freshwater wetlands, and other significant water courses when water quality could be degraded.
 - Water Resource Policy #5: The City should protect groundwater recharge areas, particularly creeks and riparian corridors.
 - Water Resource Policy #6: When new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities, the potential for surface water and groundwater contamination should be assessed and appropriate preventative measures should be recommended.
 - Water Resource Policy #12: For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.
 - Urban Forest Policy #2: Development projects should include the preservation of ordinance-sized and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.
 - Urban Forest Policy #3: The City encourages the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature tree, all reasonable measures that can effectively preserve the tree should be pursued.
 - Urban Forest Policy #8: Where urban development occurs adjacent to natural plant communities (e.g. oak woodland, riparian forest), landscape plantings should incorporate tree species native to the area to the greatest extent feasible.
 - Woodlands, Grasslands, Chaparral and Scrub Policy #1: The nature and amount of public access to wooded areas and grasslands, when allowed, should be consistent with the environmental characteristics of these areas.
 - Woodlands, Grasslands, Chaparral and Scrub Policy #5: The City should preserve and protect oak woodlands, and individual oak trees, to the greatest extent feasible.
 - Riparian Corridors and Upland Wetland Policy #1: Creeks and natural riparian corridors and upland wetlands should be preserved whenever possible.
 - Riparian Corridors and Upland Wetland Policy #2: New public and private development adjacent to riparian corridors should be consistent with the provisions of the Riparian Corridor Policy Study.
 - Riparian Corridors and Upland Wetland Policy #3: New development within the Urban Service Area should be set back from the outside edge of riparian habitat (or top of bank, whichever is greater) a distance sufficient to buffer the impacts of adjacent human activities and provide avenues for wildlife dispersal.
 - Riparian Corridors and Upland Wetland Policy #4: New development should be designed to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
5. A survey of the riparian corridor may be conducted prior to the nesting season (September to January) to determine if raptors are using the site and could potentially nest in the adjacent Coyote Creek riparian area. If raptors appear to use the corridor, nesting may be prevented by the use of reflective tape within potential nest trees to discourage potential nesting birds.
6. Preconstruction surveys for nesting raptors will be conducted between September and January by a qualified ornithologist or wildlife biologist to ensure that no raptors nests will be disturbed during demolition and construction activities. The survey will be conducted no more than 14 days prior to initiation of demolition/construction activities during the early part of the breeding season (January to April) and no more than 30 days prior to initiation of these activities during the late part of the breeding season (May to August). During the survey, the ornithologist/biologist will inspect all trees and other likely habitat in and immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found close enough to the

demolition/construction zone to be disturbed, the ornithologist/biologist (in conjunction with the California Department of Fish and Game) will determine the extent of a construction-free buffer zone to be established around the nest.

7. Implementation of BMPs, compliance with the City of San Jose Grading Ordinance and the installation of construction and silt fencing and/or fiber rolls will prevent the discharge of construction debris and soil into Coyote Creek during site clearing, grading and construction. With implementation of BMPs, compliance with the City of San Jose Grading Ordinance and installation of erosion control measures, the project will not result in significant impacts to special-status fish species in Coyote Creek.
8. Streetlights will be installed only on the street side opposite the Coyote Creek riparian corridor. If lighting on the corridor side is necessary, lights will be shaded to avoid directing lighting of the riparian corridor. The use of post-like bollards with lights positioned close to the ground will be used where lighting is necessary for safety purposes within the 100-foot riparian setback buffer. All lighting will be installed in such a manner that the illumination of the riparian corridor and glare impacts to wildlife within that area does not occur. The lowest light emission will be used in all areas that require lighting.
9. Windows in the development area will not contain reflective material or be mirrored.
10. Parking areas will only be allowed adjacent to the riparian corridor if proper stormwater measures are designed to address runoff. Site grading will direct parking area runoff away from the riparian areas.
11. The site plan has been designed to draw activity away from the riparian corridor, e.g., interior streets, entrances, noise generating activities and park. Development adjacent to the riparian corridor will consist of residential buildings and compatible land uses such that noise and equipment use in the area is minimized.
12. Segments of the riparian setback area between the setback and the closest residential buildings and pavement will be planted with California native plant species.
13. Prior to the issuance of final Building Permits and to the satisfaction of the Planning Divisions' Environmental Principal Planner, a native plant establishment plan will be prepared by a qualified biologist or wetlands hydrologist and implemented within segments of the setback buffer adjacent to the existing Coyote Creek riparian corridor. The establishment plan will be submitted to the Planning Divisions Environmental Principal Planner with a specific plant pallet and a map of the location of plants to be installed between trail, corridor, and residential buildings. The plan shall include native tree, shrub and herbaceous species to be obtained from local nurseries. The native plant establishment plan will include a management and maintenance plan to ensure the long-term success of the planting area.
14. The planting pallet for the setback area along the Coyote Creek will include the following native species. Other additional native species listed in the City of San Jose's *Riparian Corridor Policy Study* appropriate for the area may be acceptable.

Live oak (*Quercus agrifolia*) 1 to 15 gallon size,
Valley oak (*Quercus lobata*) 1 to 15 gallon size,
Elderberry (*Sambucus mexicana*) 1 to 5 gallon size,
Coyote brush (*Baccharis pilularis*) 1 gallon size,
Coffee berry (*Rhamnus californica*) 1 gallon size,
California wild rose (*Rosa californica*) 1 gallon size,
Snowberry (*Symphoricarpos alba*) 1 gallon size,
Deer grass (*Muhlenbergia rigens*) 1 gallon size,
Creeping wild rye (*Leymus tritichoides*) 1 gallon size,
Purple needle grass (*Nassella pulchra*) 1 gallon size, and
California black berry (*Rubus ursinus*) 1 gallon size.

15. Plant species known to be invasive in riparian areas, such as tree-of-heaven and German ivy, will not be installed as landscaping within the project site.

16. A split rail or similar type of fence will be installed on the creek side of the multi-purpose trail. Interpretive signs shall be installed to educate the public on the importance of the riparian area and the effects that humans have on the creek when they trespass. The wooden fence and signs will be installed to discourage pedestrians from entering the riparian zone. Dogs should not be unleashed in the riparian area and interpretive signs should include text to explain this to trail users and residents. The signage shall be approved at the Planned Development Permit stage and shall be installed by the developer prior to the issuance of final Building Permits.
17. No grading shall occur within the bed, bank or channel of Coyote Creek.
18. Orange construction fencing and silt fencing and/or fiber rolls will be installed at the edge of the riparian corridor to keep construction debris and soil from accidentally entering the Coyote Creek channel during site clearing and grading.
19. A tree protection plan will be prepared by a certified arborist and submitted to the Planning Divisions' Environmental Principal Planner prior to issuance of demolition, building or grading permits. The plan will specify measures that will be implemented during construction to limit the impact of construction on trees within the adjacent riparian corridor of Los Gatos Creek. The plan will include as a minimum:
 - fencing details for construction fencing surrounding the dripline of trees within or near the construction zone;
 - details for tree trimming, tree root trimming, or other maintenance work required for demolition, construction, or grading to proceed;
 - recommendations for fertilizer or mulch applications and supplemental irrigation requirements based upon a review of construction plans by the arborist.
20. All non-orchard trees that are to be removed shall be replaced at the following ratios:
 - Each tree less than 12" in diameter to be removed = one 15 gallon tree
 - Each tree 12" to 18" diameter to be removed = two 24" box trees
 - Trees greater than 18" diameter shall not be removed unless a Permit has been approved by the Director of Planning, Building, and Code Enforcement for the removal of such trees.
Each tree greater than 18" diameter to be removed = four 24" box trees
21. The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:
 - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
 - A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of a grading permit.
22. Implementing the following General Plan policies would mitigate the impact described above:
 - Historic, Archeological, and Cultural Resources Policy #1: Because historically or archeologically significant sites, structures, and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
 - Historic, Archeological, and Cultural Resources Policy #4: Areas with a concentration of historically and/or architecturally significant sites or structures should be considered for preservation through the creation of Historic Preservation Districts.
 - Historic, Archeological, and Cultural Resources Policy #5: New development in proximity to designated historic landmark structures and sites should be designed to be compatible with the character of the

designated historic resource. In particular, development proposals located within the Areas of Historic Sensitivity designation should be reviewed for such design sensitivity.

- Historic, Archeological, and Cultural Resources Policy #6: The City should foster the rehabilitation of individual buildings and districts of historic significance and should utilize a variety of techniques and measures to serve as incentives toward achieving this end. Approaches that should be considered for implementation of this policy include, among others: Discretionary Alternate Use Policy Number 3, permitting flexibility as to the uses allowed in structures of historic or architectural merit; transfer of development rights from designated historic sites; tax relief for designated landmarks and/or districts; alternative building code provisions for the reuse of historic structures; and such financial incentives as grants, loans and/or loan guarantees to assist rehabilitation efforts.
- Historic, Archeological, and Cultural Resources Policy #8: For proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.
- Historic, Archeological, and Cultural Resources Policy #9: Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.
- Historic, Archeological, and Cultural Resources Policy #10: Heritage trees should be maintained and protected in a healthy state.

23. **Archaeology.** There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric and/or historic resources.

- (a) If no resources are discovered, the archaeologist shall submit a report to the Director of Planning, Building, and Code Enforcement prior to the release of a Certificate of Occupancy verifying that the required monitoring occurred and that no further mitigation is necessary.
- (b) If evidence of any archaeological, cultural and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports prior to release of a Certificate of Occupancy, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial and curation of archaeological resources).
- (c) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - (1) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - (2) A final report shall be submitted to the Planning Divisions' Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resource analysis methodology and conclusions and a description of

the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Planning Divisions' Environmental Principal Planner.

24. The project site is located within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to the issuance of Grading Permits or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
25. Implementation of the following General Plan goals and policies would mitigate potential impacts with respect to geology and soils:
 - Hazards Policy #1: Development should only be permitted in those areas where potential to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.
 - Soils and Geologic Conditions Policy #1: The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion, and sedimentation in order to determine if these hazards can be adequately mitigated.
 - Earthquakes Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.
26. Flooding Policy #1: New development should be designed to provide protection from potential impacts of flooding during the "1%" or "100-year" flood.
27. **Storm Water Management.** The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of storm water pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San José, California 95110-1795. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.
28. **Storm Water Management.** This project results in a land disturbance of more than one acre. Prior to the commencement of any clearing, grading, or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:
 - 1) The applicant shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
 - 2) The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB.)

Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control may include BMP's as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
29. Prior to the issuance of a grading permit, the applicant shall submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San Jose, California 95110-1795. To obtain an NOI application and further information about the Erosion Control Plan and the NPDES permit requirements, please call the Department of Public Works at (408) 277-5161 or the SWRCB at (916) 657-1146.

30. The applicant shall maintain a copy of the most current SWPPP on site, and shall provide a copy to any City representative or inspector on demand.
31. The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific Best Management Practices will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction.
- restricting grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season;
 - using Best Management Practices, including the use of fiber rolls along the edge of the riparian corridor or project boundary nearest the corridor, to retain sediment on the project site;
 - use of stabilized construction entrances and/or wash racks;
 - damp street sweeping;
 - providing temporary cover of disturbed surfaces to help control erosion during construction;
 - provide permanent cover to stabilize the disturbed surfaces after construction has been completed.
32. The following General Plan Policies will be implemented through staff review of the proposal associated with the Planning Divisions' development review process:
- Neighborhood Identity Policy #3: Public and private development should be designed to improve the character of existing neighborhoods. Factors that cause instability or create urban barriers should be discouraged or removed.
 - Neighborhood Identity Policy #4: Neighborhoods should include places for interaction among residents such as parks, community centers, schools, commercial areas, churches, and other gathering points.
 - Residential Land Use Policy #1: Residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided.
 - Residential Land Use Policy #5: Residential development should be allowed in areas with identified hazards to human habitation only if these hazards are adequately mitigated.
 - Residential Land Use Policy #9: When changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including schools, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.
 - Residential Land Use Policy #11: Residential developments should be designed to include adequate open spaces in either private yards or common areas to partially provide for residents' open space and recreation needs.
 - Residential Land Use Policy #20: Roads, buildings and landscaping for new residential projects should be designed and oriented to maximize energy conservation benefits for space heating and cooling to the extent feasible.
 - Residential Land Use Policy #24: New residential development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development, the adjoining neighborhood, transit access points, and nearby commercial areas.
33. Sound attenuation techniques will be incorporated into the construction of the project, generally consisting of sound-rated windows, to mitigate indoor noise levels to DNL 45 dB or lower. A noise report verifying this shall be prepared by a qualified noise consultant, and shall be submitted to, and approved by the Planning Divisions' Environmental Principal Planner prior to the issuance of Building permits.
34. Construction activities will be limited to the hours of 7 am to 7 pm Monday through Friday, with no construction permitted on weekends or holidays.
35. Prohibit unnecessary idling of internal combustion engines.

36. Locate all stationary noise-generating equipment such as air compressors as far as practical from existing nearby residences.
37. Select quiet construction equipment, particularly air compressors, wherever possible, and fit motorized equipment with mufflers in good working order.
38. Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. Conspicuously post the name and telephone number of the disturbance coordinator at the construction site.
39. Noise Policy #1: The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.
40. Implementation of the following General Plan policies would mitigate potential impacts with regards to recreation:
 - Parks and Recreation Policy #1: The City should consider as an objective the provision of neighborhood or community park within reasonable walking distance for each resident.
 - Parks and Recreation Policy #2: Public parks, open space lands and other similar public areas should be located, oriented and designed in such a way as to facilitate their security and policing.
 - Parks and Recreation Policy #4: The City should accept open space land dedications only when public ownership will preserve the natural and scenic beauty, protect natural and man-made landmarks, or provide a land supply to meet future recreational needs.
 - Parks and Recreation Policy #6: In the design and maintenance of parks, consideration should be given to impacts on wildlife. In particular, it should be recognized that native plant species may be best suited for providing wildlife cover and food sources and that herbicides, pesticides and fungicides may be damaging to native plants and wildlife.
 - Parks and Recreation Policy #7: The City encourages the Santa Clara Valley Water District, school districts, the Pacific Gas and Electric Company and other public agencies and utilities to provide for appropriate recreational uses of their respective properties and rights of-way.
 - Parks and Recreation Policy #13: The City encourages the County and other public agencies to accept dedications of open space lands of regional significance, including watersheds, wildlife habitats, wetlands, historic sites, and scenic lands. The City also encourages private entities to preserve open space lands.
 - Parks and Recreation Policy #14: Bikeways, hiking trails, equestrian trails, rest areas and picnicking accommodations should be provided, wherever feasible, within parks and trails corridors designated on the Scenic Routes and Trails Diagram, to access the hillsides, ridgelines, baylands, significant waterways, and other scenic areas.
 - Parks and Recreation Policy #16: The City should facilitate the creation and improvement of neighborhood and community parks by using the Parkland Dedication Ordinance, the Parallel Impact Fee Ordinance, and the Construction and Conveyance Tax.
 - Parks and Recreation Policy #17: Parks should be designed and constructed in a manner that allows access to each type of recreational experience for people of all abilities to the maximum extent possible.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **August 11, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND,

if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: _____

Deputy

Adopted on: _____

Deputy

MND/JAC 12/29/03